

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Clayton Andrew Perry, et al.,

No. C 05-4686 WDB

Plaintiffs,

ORDER FOLLOWING STATUS
CONFERENCE

v.

Matthew Epstein, Jacob Y. Cuadrez,
Steve Heisinger, Ian Maddison, Mill
Valley Police Department, and City
of Mill Valley,

Defendants.

On April 27, 2006, the Court conducted a status conference in this matter. For reasons more fully explained on the record, the Court ORDERED as follows:

1. **As soon as possible, and by no later than May 5, 2006**, Defendants must propound to Plaintiffs one special interrogatory, asking Plaintiffs to set forth all the facts and evidence that supports the notion that there existed a conspiracy among any of the defendants to commit the acts complained of in the First Amended Complaint.

2. Plaintiffs intend to retain their claim under California Civil Code § 43 because they believe this statute permits imposition of liability on a theory of respondeat superior, a theory that is not recognized under Plaintiffs' federal claims.

3. The Court GRANTED Plaintiffs' oral motion to strike their claim under California Civil Code §1708 from the First Amended Complaint.

1 4. **By Thursday, May 18, 2006**, counsel for Plaintiffs and counsel for
2 Defendants must meet and confer with regard to the following substantive issues in the
3 First Amended Complaint:

4 (a) to what extent Plaintiffs' claims with regard to events occurring on August
5 17, 2005 remain viable; and

6 (b) whether (and under what circumstances) co-conspirators may be liable for
7 punitive damages for acts committed by other members of a conspiracy.

8 5. **By Thursday, June 1, 2006**, Defendants must file motions, if any, on
9 substantive matters left unresolved by the parties' meet and confer as ordered in paragraph
10 4.

11 6. The parties indicated on the record that they would be amenable to
12 participating in alternative dispute resolution, either in the form of Early Neutral
13 Evaluation ("ENE") or mediation. **By Thursday, May 4, 2006 at 10:00 a.m.**, counsel
14 for Plaintiffs must contact the Court at 510-637-3324 to notify the Court whether the
15 parties desire to proceed with ENE or, alternatively, with mediation. Upon receiving this
16 information, the Court will contact the ADR department to facilitate scheduling the
17 process the parties select. The Court VACATES the ENE session currently set for July
18 30, 2006.

19 7. Plaintiffs represented to the Court that they have located defendant Matthew
20 Epstein and will serve him promptly.

21
22 IT IS SO ORDERED.

23 Dated: May 1, 2006

24 /s/ Wayne D. Brazil
25 WAYNE D. BRAZIL
United States Magistrate Judge

26 Copies to:
27 Parties, WDB, Stats.
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